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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/319,071 | 07/07/1999 | RITSKE CLEWITS | 96.968US | 2335 |

466 7590 03/11/2003

YOUNG & THOMPSON
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ARLINGTON, VA 22202

EXAMINER

PATEL, JAGDISH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3624

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

Office Action Summary

Application No.

09/319,071

Applicant(s)

CLEWITS, RITSKE

Examiner

JAGDISH N PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 10 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

1. This communication is in response to amendment filed 1/2/03.

Response to Amendment

2. Claims 2-5, 10 and 12 have been amended. Claim 11 has been canceled.

3. The pending claims 2-5, 10 and 12 have been rejected on new ground of rejections and a new non-final action is issued.

Specification

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to support the subject matter set forth in the claims. The specification, as originally filed does not provide support for the invention as now claimed.

The test to be applied under the written description portion of 35 U.S.C. § 112, first paragraph, is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of later claimed subject matter. Vas-Cat, Inc. v. Mahurkar, 935 F. 2d 1555, 1565, 19 USPQ2d 111, 1118 (Fed. Cir. 1991),

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reh'rg denied (Fed. Cir. July 8, 1991) and reh'rg, en banc, denied (Fed. Cir. July 29, 1991).

Details of the subject matter under this objection is discussed in the following paragraphs. (See Claim Rejections - 35 USC § 112).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 2-5, 10 and 12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 10 recites limitation "programming means for modifying said numerical value in accordance with the previously unavailable functions that have been made available for use by being purchased and activated in the programming device."

This limitation is not described in the specification in such a way as to enable one skilled in the art to which it

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pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification fails to teach this essential feature of the claimed invention. For example, p. 3 lines 29- p. 4 line 2 and p. 4 lines 22-28 describe connection (coupling) of the programmable device, programming means and the electronically readable information carrier. There is only incidental recitation of "modifying said numerical value" at p. 4 lines 22-28 (...corresponding value is debited).

The specification in particular fails to teach a logic showing detailed functionality of the programmable device that teaches how to build such a device where different amounts are debited for different functions, how one or more functions are selected and activated, how the numerical value on a "electronically readable information carrier" (shown as programmable card 7) is modified in accordance with the functions purchased and activated as per claim 10.

This deficiency also applies to limitations recited in claim 3 and 5 (outside their being dependent on parent claim 10) (automatic payment machine) because the specification fails to describe such automatic payment machine in details having claimed functionalities, and claim 12 because it is a method claim corresponding to apparatus claim 10.

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Claim 5 recites "programmable device is a timer". The specification fails to teach a programmable timer having features recited in claim 5. In this regard, the specification merely states on p. 4 lines 9-10: "the programmable device is a timer". The specification fails to teach specific logical functionally showing its interface with the reading means, the information carrier and aspects of purchase and activation of one or several software/hardware functions as related to it.

Contrary to the recitation of claim 10 which comprise a programming means, the specification on p. 6 l 30- end discloses that "the programmable timer will usually not comprise the programming means in this application".

Note that dependent claims 2-4 also inherit deficiencies of parent claim 10.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 10 and 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 10 recites limitation "programming means for modifying said numerical value". However, the "reading means" as recited fails to positively recite that a numerical value is stored on the information carrier, it recites "...information carrier that includes a programmable memory for storing a numerical value;". The limitation should read "having a numerical value store thereon" instead of "for storing a numerical value".

Note that dependent claims 2-4 also inherit deficiencies of parent claim 10.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1038. The fax number for Formal or Official faxes to Technology Center 3600 is (703) 305-7687. **Draft faxes may be submitted directly to the examiner at (703) 746-5563.**

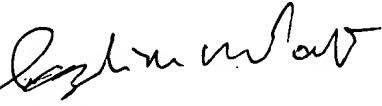
Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113 or 308-1114. Address

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for hand delivery is 2451 Crystal Drive, Crystal Park 5, 7th
Floor, Alexandria VA 22202.



Jagdish N. Patel

(Examiner, AU 3624)

3/5/03